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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,964	11/25/2003	Mabrouk Quederni	2000-16 CIP-2	4353

7590

10/18/2005

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EXAMINER

YAO, SAMCHUAN CUA

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,964

Applicant(s)

QUEDERNI ET AL.

Examiner

Sam Chuan C. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-25-03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14, drawn to a single layer air-laid composition, classified in class 604, subclass 385.04.
- II. Claims 15-20, drawn to a method of making a single layer air-laid web, classified in class 264, subclass 109.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as forming a substantially fluffy and flexible web.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Gregory Clements on around 09-14-05 a provisional election was made without traverse to prosecute the invention of Group I (claims 1-14). Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-20 are withdrawn from

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further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10-11 are indefinite, because it is unclear how these two claims further defines claim 1. These claims appear to broaden claim 1 instead of further limiting claim 1.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaug et al (US 5,601,545) in view of Jennergren et al (US 6,368,990), Seal (US 5,041,104).

With respect to claims 1 and 10-14, Glaug et al discloses a single layer absorbent layer or panel (86 or 92) for incontinence articles such as a

disposal diaper. The absorbent layer or panel comprises a SAP such as polyvinyl alcohol, polyacrylic acids, etc, a wood pulp fluff, and bicomponent binder fibers (col. 6 line 29 to col. 7 line 55). Glaug et al also teaches incorporating a *"suitable absorbent material, natural or synthetic or a combination thereof; any suitable superabsorbent material or combination thereof; or any combination of absorbent material and superabsorbent material."* (col. 6 lines 29-33). Glaug et al differs from claim 1 in that, Glaug et al does not teach using hollow synthetic fibers. However, it would have been obvious in the art to incorporate synthetic hollow fibers in forming an absorbent layer/panel, because: a) Jennergren et al, drawn to making absorbent articles, teaches using synthetic hollow fibers of the type taught by Huntoon et al to enhance *"barrier and containment, and good abrasion resistance and tensile strength, pleasing aesthetics, ..."* and also to improve *"SAP containment and ~~striketrough~~/rewet for hygiene applications, due to the increased number of filaments and/or fibres for a given weight basis"* (col. 2 lines 14-46); and, b) Seal, drawn to making an absorbent web, also teaches using polyester hollow fibers to enhance a loft/bulk characteristic of a fiber web (col. 3 lines 48-51). While Glaug et al does not expressly forming an absorbent layer or panel by air-laying, it is taken that the recited *"air laid composition"* fails to define over the absorbent layer or panel taught by Glaug et al. In any event, it would have been obvious in the art to form an absorbent layer or panel of Glaug et al by air-laying as such is a notoriously common practice in the art.

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With respect to claims 2-3, see column 5 lines 11-22 and column 10 lines 58-67 of the Jennergren et al patent. Moreover, it is also well known in the art to form an absorbent article comprising hollow synthetic fibers in an amount which overlaps the recited weight range. For these reasons, these claims would have been obvious in the art.

With respect to 4, see column 5 lines 23-40 of the Jennergren et al patent.

With respect to claim 5, hollow synthetic fibers which are made from PET are old in the art.

With respect to claims 6-9, the recited amount of bi-component binder fibers, absorbent components, and the recited materials for the binder fibers are conventional in the art. For this reason, these claims would have been obvious in the art.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
10-15-05